

SUPPORT FOR THE AMENDMENTS

Claims 1-6 and 15 have been canceled.

Claims 7-9, 11-14, and 36 have been amended.

Claim 37 has been added.

The amendment of Claim 7 is supported by the originally filed specification at page 26, lines 5-16. The amendment of Claims 8-9, 11-14, and 36 serves to ensure proper antecedent basis by replacing the phrase “the other material” with “said another material.” Support for this amendment is provided by the corresponding originally pending claims. New Claim 37 is supported by page 25, line 22 to page 27, line 1.

No new matter has been added by the present amendment.

REMARKS

Claims 7-14 and 16-37 are pending in the present application

The rejection Claims 7-14 and 34-36 under 35 U.S.C. §102(e) over Toyoda et al (U.S. 6,932,920) is respectfully traversed on the grounds that this reference is not prior art against the present application.

Applicants note that Toyoda et al issued on August 23, 2005 based on an application that was filed on October 13, 2003. The present application was filed on October 28, 2003, claiming priority to JP 2002-319480 filed on November 1, 2002, and JP 2003-149921 filed on May 27, 2003. To perfect their claims to foreign priority to JP 2002-319480 and JP 2003-149921, respectively, Applicants **submit herewith** certified English translations of JP 2002-319480 and JP 2003-149921. Applicants request that the Examiner acknowledge entitlement of the present application to the benefit of an earlier filing date provided by the claim to priority to JP 2002-319480 and JP 2003-149921, which are eleven and five months prior to the effective filing date of Toyoda et al, respectively. Since Toyoda et al is not prior art against the present claims this ground of rejection should be withdrawn.

Acknowledgment that this ground of rejection has been withdrawn is requested.

The rejections of Claims 7-14 under 35 U.S.C. §112, first paragraph (enablement and written description), and under 35 U.S.C. §112, second paragraph, are obviated by amendment.

The Examiner has rejected Claims 7-14 based on the phrase “the other material.” The Examiner’s first criticism is that this term fails to find proper antecedent basis in Claim 7. Second, the Examiner has indicated that there does not appear to be support for the proportion ratio of crystalline particles to “the other material” of 30 to 80wt%. Indeed, as is

evident from the specification, the recited weight percentage was meant to be on the basis of the total weight of the complex material and not actually a proportional weight (see page 26, lines 5-16). Accordingly, both of the Examiner's criticisms are believed to be obviated by deletion of the phrase "the other material" from Claim 7.

With respect to the criticisms of the claims as lacking antecedent basis for the term "the other material." Applicants have amended the claims herein to ensure that antecedent basis exists throughout the claims by replacing the phrase "the other material" with "said another material."

In view of the foregoing, Applicants request withdrawal of the various rejections of the claims under 35 U.S.C. §112.

Finally, Applicants remind the Examiner that MPEP §821.04 states:

...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim *will* be rejoined. (*emphasis added*)

Upon a finding of allowability of the elected product claims, Applicants respectfully request rejoinder of the withdrawn process claims. Additionally, Applicants reserve the right to further amend the claims to assure compliance with MPEP §821.04 and/or introduce new method claims that meet the requirements of MPEP §821.04.

Application No. 10/694,042  
Reply to Office Action of December 7, 2005

Applicants submit that the present application is in condition for allowance. Early notification to this effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Bradley D. Lytle  
Attorney of Record  
Registration No. 40,073

Vincent K. Shier, Ph.D.  
Registration No. 50,552

Customer Number

**22850**

Tel: (703) 413-3000  
Fax: (703) 413-2220  
(OSMMN 08/03)